

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 19, 2008

No. 07-30826
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

RONALD JOSEPH FAVORS, JR

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 6:97-CR-60045-1

Before GARZA, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Ronald Joseph Favors, Jr. federal prisoner # 09800-035, appeals the district court's denial of a motion for a downward departure or evidentiary hearing pertaining to his 1998 sentence for drug possession with intent to distribute. Favors based his claims on 18 U.S.C. § 3553(e), FED. R. CRIM. P. 35, U.S.S.G. §§ 5K1.1 & 5K2.0, and *Wade v. United States*, 504 U.S. 181, 186 (1992),

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

and he contended that he was entitled to a sentence reduction because he rendered substantial assistance to the Government.

The statutes and Guidelines cited by Favors do not apply. Some require a government motion that is lacking in this case. See § 3553(e); Rule 35(b); § 5K1.1. Another does not pertain to a downward departure for substantial assistance. See § 5K2.0.

Wade likewise provides no legal basis for Favors's claim. The Government has "a power, not a duty, to file a motion when a defendant has substantially assisted." Wade, 504 U.S. at 185. Moreover, "a claim that a defendant merely provided substantial assistance will not entitle a defendant to a remedy or even to discovery or an evidentiary hearing. Nor would additional but generalized allegations of improper motive." Id. at 186. The district court's judgment is AFFIRMED.